

September 9, 2008



**TRANSCRIPT
September 9, 2008**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	Councilmember Phil Andrews, Vice-President
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Valerie Ervin	Councilmember Nancy Floreen
Councilmember George Leventhal	Councilmember Donald Praisner
Councilmember Duchy Trachtenberg	



September 9, 2008

1 Council President Knapp,

2 Okay. Good morning everyone. The Council is reconvening after its traditional August
3 recess. This is our first session back. We began today with a lively breakfast meeting
4 with the County Executive. We don't have a huge agenda this morning, but we have got
5 some important items on it. But we begin our morning with invocation by Reverend Jan
6 Lookingbill from Emmanuel Lutheran Church from Bethesda, if you would please join
7 us. And would everyone please rise?

8
9 Jan Lookingbill,

10 Oh, lord our lord, how excellent is your name in all the earth. We give you thanks for this
11 County, we give you thanks for the resources that you have placed into our hands here,
12 we give you thanks for our children, our students, our elderly, those who have
13 emigrated into this community. We give you thanks for the resources of food and for
14 families that gather around here. But most of all heavenly father, we give you thanks
15 this morning for this County Council, for those who are willing here to serve to use their
16 insight, to use their expertise, to use their influence to be able to bring justice and
17 mercy, compassion, and loving kindness to this land. We pray, heavenly father, for
18 those who work diligently day after day, we pray for those who search for homes in this
19 community, for those who make their families welcome here and who welcome
20 neighbors, who are able to grow and sustain themselves and be able to encourage
21 neighbors and friends to be able to live in safety. We are well aware of the issues of
22 safety in our community, heavenly father, with perhaps sometimes elderly women living
23 by themselves at risk. We give you thanks, heavenly father, on this 7th anniversary
24 week of 9/11 when this County Council was gathered together here in this very room as
25 there was indeed terror struck into New York City. We remember those who died, we
26 remember those who saved lives, we remember those who have prayed and those who
27 have worked to commit themselves to safety and security in this community and in this
28 land. Continue to bless us and bless especially this County Council. Bless those who
29 speak. Bless those who listen. We pray for vision and we pray heavenly father for your
30 loving kindness, compassion, and mercy in all that we do. We pray all this in your holy
31 name. Amen.

32
33 Council President Knapp,

34 Thank you very much. We will now turn to General Business. Ms. Lauer. Any
35 Announcements?

36
37 Linda Lauer,

38 We have an addition this morning after the briefing. We have an 11:45 proposed closed
39 session, and that would be for the purpose of consulting with counsel to obtain legal
40 advice regarding pending or potential litigation. The topic is Barwood Litigation. That will
41 be downstairs in the 6th floor conference room. We did receive some petitions. We have
42 one supporting Suburban Hospital's Campus Enhancement Project, one opposing the
43 Executive's plan to purchase the GE Tech Park, and opposing the ambulance fee, Bill
44 25-08. Thank you.



September 9, 2008

1
2 Council President Knapp,
3 Thank you very much. Are there Minutes to Approve, Madam Clerk?

4
5 Council Clerk,
6 Yes, the Minutes of July 15th and the closed session Minutes of July 15th.

7
8 Council President Knapp,
9 Is there a motion?

10
11 Councilmember Leventhal,
12 So moved.

13
14 Councilmember Trachtenberg,
15 Move approval.

16
17 Council President Knapp,
18 Moved and seconded. Moved by Councilmember Leventhal, seconded by
19 Councilmember Trachtenberg. All in support of the Minutes, indicate by raising your
20 hand. That is unanimous among those present. Thank you very much. We now turn to
21 the Consent Calendar. Is there a motion?

22
23 Councilmember Floreen,
24 So moved.

25
26 Councilmember Ervin,
27 Second.

28
29 Council President Knapp,
30 Moved by Councilmember Floreen, seconded by Councilmember Ervin. Is there a
31 discussion on the Consent Calendar? Councilmember Floreen.

32
33 Councilmember Floreen,
34 Thank you Mr. President. I just wanted to comment on item 2 C, which is a follow-up on
35 an emissions analysis of the County and bi-County fleets. It's appropriate today that
36 we're taking up the Council of Government's climate change recommendations for the
37 region because what the Council has been doing really since 2003 is very consistent
38 with that. But I did want to draw everyone's attention to that report, it gauges the current
39 activities of County Government and I think we're going to be forwarding that to the
40 Sustainability Committee to make sure that that information is part of their package that
41 they'll bring to us at a later point. But we have been on this mission for a long time, and
42 it turns out as usual we were ahead of the game.

43
44 Council President Knapp,



September 9, 2008

1 Very good. Council Vice-President Andrews.

2
3 Councilmember Andrews,

4 Thank you President Knapp. I would like to thank the Office of Legislative Oversight as
5 well as the Management and Fiscal Policy Committee for their work on the report, Hiring
6 Persons with Disabilities: A Review of County Government Practices, that is on the
7 Consent Calendar for approval for the recommendations. I want to just describe the
8 recommendations briefly because I think this is a very important area, and one that has
9 been of intense interest to a lot of people in the County, to make the County more
10 friendly in terms of being accessible for work for people with disabilities. The first
11 recommendation, this is item 2D in the packet, is to ask the County Executive to make
12 hiring persons with disabilities a more visible County Government priority by identifying
13 a senior County Government staff member who will serve as a champion for this,
14 convene an interdepartmental taskforce to look at new strategies for increasing
15 attention across the departments to this, and fostering a strong public-private
16 partnership with the organizations that work with people with disabilities. The second is
17 to ask the Executive Branch to review certain County Government merit system hiring
18 practices to see if they are overly restrictive, and whether there are ways to, of course,
19 maintain the merit system without violating its intent, but to ensure there aren't
20 unreasonable barriers to hiring people with disabilities. And third, to monitor the
21 progress of the customized employment public interim project which has been
22 underway and request an Executive Branch review of administrative procedure 110,
23 and there's one other recommendation as well, looking at a potential charter
24 amendment. But I want to commend the Office of Legislative Oversight for another
25 excellent report and for the Management and Fiscal Policy Committee for their work on
26 this.

27
28 Council President Knapp,

29 Very good. Councilmember Leventhal.

30
31 Councilmember Leventhal,

32 Yeah, I have a comment very briefly on item 2B. The Executive Branch has requested
33 some amendments that I think should be noncontroversial to our energy policy, and
34 they are not, they are continuing towards the goal that this Council voted for a couple
35 years ago to purchase 20% of our electricity supply from clean and renewable sources
36 by 2011. They do make some other technical changes that the T&E Committee will
37 discuss on October 20th. If it's agreeable to the Chair of that Committee and the lead
38 member for energy, I'd like to request of Mr. Sherer that on that same date we get a
39 thorough briefing on the effort to join a consortium of energy buyers with the State of
40 Maryland and Baltimore City that the governor announced over the summer, that would
41 be very relevant to these changes to energy policy just so we can have a thorough
42 understanding of exactly how we are buying the clean energy and how we, I think
43 there's a good story to be told about how by purchasing long-term contracts and
44 broadening the consortium that is doing the buying, we are significantly bringing down



September 9, 2008

1 the price. That's not addressed in this memo, but I would be very interested in learning
2 more about that in the T&E session on October 20th.

3
4 Council President Knapp,
5 Further discussion on the Consent Calendar? Seeing none, all in support indicate by
6 raising your hand. That is unanimous, thank you very much. We now turn to District
7 Council Session. First up we have Action, Resolution to establish public hearing for
8 October 14, 2008 at 1:30 on an Amendment to the Master Plan for Historic
9 Preservation: Individual Historic Resources. I believe we've been provided an amended
10 copy of that Action for our consideration. Is there a motion?

11
12 Councilmember Ervin,
13 Second.

14
15 Council President Knapp,
16 Moved by Councilmember Trachtenberg, seconded by Councilmember Ervin. Is there a
17 discussion? Seeing none. All in support indicate by raising your hand. That is
18 unanimous. Thank you very much. Legislative Session, Day number 29. Approval of the
19 Legislative Journal, Madam Clerk. Changed seats.

20
21 Council Clerk,
22 You have the Minutes of July 15th for Approval.

23
24 Council President Knapp,
25 Is there a motion?

26
27 Councilmember Leventhal,
28 Approve the minutes.

29
30 Council President Knapp,
31 Moved by Councilmember Leventhal.

32
33 Councilmember Trachtenberg,
34 Second.

35
36 Council President Knapp,
37 Seconded by Councilmember Trachtenberg. Is there a discussion on the Minutes?
38 Seeing none, all in support, indicate by raising your hand. That is also unanimous.
39 Thank you. There are no Bills for Introduction. We now turn to Call of Bills for Final
40 Reading, Bill 21-08, Contracts and Procurement - Prevailing Wages - Construction. The
41 T&E Committee recommends approval with amendments. I'll now turn to the Chair of
42 the T&E Committee, Councilmember Floreen.

43
44 Councilmember Floreen,



September 9, 2008

1 Thank you, Mr. President. As you noted, the Transportation Infrastructure Energy
2 Environment Committee supports this. Basically as you will, and we took it up at the
3 very end of July. Basically, as you will recall, this Bill will require contractors and
4 subcontractors to pay prevailing wages to workers on certain kinds of construction
5 projects awarded by the County or financed with certain County appropriations, grants
6 or tax credits. This would bring us in line with what's happening within the State of
7 Maryland, Baltimore City, and Prince George's County. So we are not making, this is
8 not really a new initiative. It would require, it is patterned after existing prevailing wage
9 laws, and would require minimum labor rates for different construction specialties that
10 are set annually basically by the Maryland Division of Labor and Industry. And this
11 would be managed by the Department of General Services. And I don't know if, and
12 there's Mr. Dise to be, you may want to join us down here David. There was some,
13 there are a majority of Councilmembers who supported this Bill to start out with, but we
14 did listen attentively to some of the issues that were raised. Some folks suggested and
15 argued that this would raise the costs of contracts. We are not, the Committee was not
16 persuaded that that was likely to be a big issue, although our staff has some views on
17 that subject. I will note that this will not apply to Montgomery County Public Schools
18 because they operate under the state rules that actually exempt their contracts from
19 this. There are some adjustments to the submitted legislation that we recommended
20 based on conversation with staff and the County Executive and our former colleague,
21 Tom Perez, who as you know is now Secretary of Labor and Licensing, right. That's his
22 job? So we were persuaded to amend the Bill to require biweekly reporting. We
23 recommended that the Bill be amended to prohibit the misclassification of workers in an
24 incorrect job category. Pretty straightforward. We recommended adding an enforcement
25 tool which would permit the withholding of payments for violations as a tool. We also
26 proposed to amend the Bill to delete the applicability of the new jobs credit to increase
27 the base to which this would apply to contracts over \$500,000 and above, and to limit
28 the applicability of the Bill to economic development funds that are designated for
29 construction. And there was some conversation as to whether we would want to have
30 the state help really manage the program for us, we declined to go in that direction, and
31 to keep this at the County level. And we kept the effective date that was proposed in the
32 Bill to take effect as applicable to contracts as of July 1st, 2009. There were also some
33 technical amendments recommended by the County Executive having to do with some
34 definitions and specific authority for liquidated damages, which we were comfortable
35 with. And basically, we made no other changes to the Bill. So that's the
36 recommendation of the Committee, to support with those amendments. I know that Ms.
37 Ervin has some comments she would like to make generally, but that's the Committee
38 recommendation. And I will defer to staff if I got anything incorrect. Did I get it right Bob?
39 Okay.

40
41 Council President Knapp,
42 Thank you very much. Councilmember Ervin.

43
44 Councilmember Ervin,



September 9, 2008

1 Yes. Thank you very much. I'd like to take this opportunity to thank the T&E Committee
2 for its hard work and they asked a lot of questions, and I thought they did a really great
3 job. I also want to thank my Council cosponsors, Councilmember Leventhal,
4 Trachtenberg, Floreen, Elrich, and Berliner for cosponsoring what I think is very
5 important legislation which is really the first cousin to the Living Wage Bill that the
6 Council passed in 2002. We are very grateful for the support, and I just wanted to say
7 that in Montgomery County, most contractors are already paying prevailing wage. So
8 what we are really trying to accomplish with the Bill is just codify what's in state law
9 already. And so I'm very excited. Today, we were contacted by the Mid-Atlantic Region
10 of Carpenters and their members who work in construction trades all over the State of
11 Maryland and in the metropolitan region, and we worked very hard on this Bill for about
12 a year and a half. So I want to thank you, Mr. David Dise, for your assistance and work
13 on this Bill as well. So that's all I had to say. Thank you very much.

14
15 Council President Knapp,
16 Thank you very much. Council Vice-President Andrews.

17
18 Councilmember Andrews,
19 Thank you, Mr. President. Well, I approached this Bill with a very open mind, and we
20 had a number of people testify. We have a good packet that has the testimony from the
21 public hearing. I met with people who favor the Bill and people who didn't. And my
22 concerns haven't been satisfied. Or should I say, I don't think the proponents have
23 made the case that this Bill will do what it claims to do without a significant increase in
24 costs. We have a bid that came in from, we have information that Frederick County bid
25 out at a prevailing wage level and a non-prevailing wage level for a school project, and
26 the difference was about 6%, about \$3.5 million in the bid. This was sent out recently.
27 So I don't think we have any better evidence than that that there may well be a
28 significant increase in cost if this is approved. Now we just had a discussion downstairs,
29 in diplomatic language it would be called a frank and candid discussion, with the County
30 Executive about the budget problems that we have, which we are all aware of. We are
31 also aware the state is facing a budget shortfall that could be a billion dollars next year.
32 We are somewhere in the perhaps quarter billion range right now, and we don't know
33 what it will be exactly. And so it seems to me that we ought to be very sure if this Bill is
34 going to be adopted, that it's not going to increase costs. Now, I wrote the Living Wage
35 Law, I championed the Living Wage Law, and I don't consider this a relative of the
36 Living Wage Law. The Living Wage Law is designed to lift people out of poverty, and it
37 does, at least to the degree that we fund it adequately and set the wage at a reasonable
38 level. The Living Wage Law was a very contentious three-year battle. It was adopted in
39 2002, it took a lot of rhetorical bullets from some very hyperbolic and vitriolic editorials
40 on that as did some of my colleagues, and yet I see this in a different light because the
41 Living Wage Bill sets a wage level that has now been updated at \$12.40 an hour as of
42 July 1st. Two people making the living wage in Montgomery County make about
43 \$50,000 which is difficult to get by on but possible to get by on. It's above the poverty
44 level and this is different, this is different. If you look at the packet, if you look at the



September 9, 2008

1 addendum to the packet, and you look at the hourly rates, they are of a different
2 magnitude. And so it's not, this is not about lifting people out of poverty. It's about a pay
3 increase. And I'm not against pay increases if you can show an offsetting public benefit
4 to it. And that's what I didn't hear. I haven't heard that Montgomery County has shoddy
5 construction. I haven't heard that construction workers in Montgomery County or on
6 Montgomery County projects are underpaid. If you were to extrapolate and say this
7 would result, as Frederick County's experience did in their bid, in a 6% increase and
8 you were to have a 6% increase in what the average basically hour rate, well if you look
9 at the addendum in the packet and let's look at the basic hourly rate for plumbers which
10 is \$33.82, well, 6% less than that would be about \$31, which is about \$64,000 a year. If
11 that were to go up 6% to what this rate is now, that is \$68,992, and then you add
12 benefits to that of about \$26,000. So for a plumber under this, you're looking at a cost
13 on an annual basis of \$95,000. In terms of what have we pay police officers, we pay,
14 starting, and this includes apprentice plumbers as well as experienced plumbers. So an
15 apprentice plumber under the prevailing wage law would be paid at an annual rate,
16 including the cost of benefits, \$95,000 with a salary of \$68,992. Now, don't get me
17 wrong. I think construction workers make a very major contribution to our economy, but
18 we can't afford to pay police officers or firefighters or teachers who are starting out
19 anywhere near that. We pay police officers, starting police officers \$46,972 plus
20 benefits. We pay firefighters to start out \$40,797 this year, and we pay teachers
21 \$46,410. So I am waiting to hear what is the justification for having such a higher wage
22 level that would be guaranteed under this Bill than we are able to afford our own
23 employees? I haven't heard a compelling argument about why this Bill is needed, but I
24 would say that there is a way to find out and put to the test because I listened to
25 proponents and I heard proponents say it's not going to cost more money. That's very
26 appealing. Because who wouldn't want to pay employees more if it's not going to cost
27 anything? Well, Frederick County's experience is different from that, so was Carroll
28 County's, and that's in the packet as well. We have construction projects go out to bid
29 all year. We have our Procurement Director here and we could put it to the test. We
30 could bid some projects out at the prevailing wage, and at a non-prevailing wage, and
31 see what the difference is, and then we would have good information about whether this
32 Bill will cost more money or not if it becomes law. And I'd like to ask Mr. Dise of the
33 Procurement Department, who directs it, what projects we have that are coming up that
34 might be going out to bid in the next month or two.

35
36 David Dise,

37 Well, we have a number of projects that are coming up, some fire stations and the like,
38 typical sort of projects for the County, however I would caution as to whether that would
39 be a viable experiment, since it's being unregulated an individual who knows what the
40 objective is, which is to show savings, could in fact, undercut to an appreciable degree
41 in order to emphasize the point. I mean, this is similar in many existing contracts. When
42 the County executes a contract for the purchase of certain goods, it's always possible
43 for other companies to come in after that award is made, and say I can sell it cheaper
44 because now they know what the target price is. Since the state's wage rates under



September 9, 2008

1 prevailing wage are published, and everyone knows what those are, it is possible for a
2 company who is trying to undermine those rates to cut it appreciably in order to make a
3 point. Whether that would bear out over the long term is another matter. It's always
4 possible for someone to operate at a loss in order to get a job, what I would call buying
5 a contract essentially. So I'm cautious as to whether that would be a viable experiment.
6

7 Councilmember Andrews,

8 Well, let me ask you this, then, do you think that the County is currently receiving
9 substandard work as a result of our current system?
10

11 David Dise,

12 Well, the quality of work that's performed often depends upon not only the company
13 performing it, but the crew performing the work. One of the things that is, one of the
14 principles espoused under the results of the Bill is some uniformity of work because of
15 the uniformity of training represented by the various trades and crafts and unions and
16 the standards of training that they represent. So it is expected that the performance
17 would be on a more consistent level as opposed to that which is again unregulated
18 because of the absence of a consistent work force.
19

20 Councilmember Andrews,

21 Do you think that, can you point to a single project though in the County where you
22 would say that you are dissatisfied with it? We've had a lot of projects built recently, the
23 Rockville Library, the Germantown Library. Well, if you look at how the Germantown
24 Library turned out, it turned out very well in terms of. Well, the first. Hold on. Yes. It's not
25 to say there aren't ongoing issues with contracts and that you don't have back and forth.
26 But if you look at how the Germantown Library turned out, if you look at how the
27 Rockville Library turned out, if you look at various other projects, you know, I'm not
28 persuaded that there isn't going to be a significant cost difference to this. And the
29 evidence from Frederick and Carroll Counties certainly doesn't allay my fears about
30 that. And so I question whether this is affordable at this time. We already have a tight
31 budget, we've already been pushing projects out of the capital budget. If this adds 5 or
32 6% to the cost of our projects that are subject to it, that's a significant amount of money
33 given that many of these projects are 20, 30, 40, \$50 million projects.
34

35 David Dise,

36 A number of, we don't track and have not tracked in the past whether the work that's
37 performed on our contracts is done by a union contract company or a nonunion
38 company. We can do that. But as to the, again, so I can't testify to the quality of the
39 work relative to a union shop or a nonunion shop and a regulated shop and the rate that
40 they pay their employees. We don't know that. And typically when we ask companies
41 and in preparation for this and the studies that we did over the past year on this Bill,
42 asking individual construction companies for their labor rates, they understandably were
43 reluctant to provide those. So we don't know what individual construction companies
44 pay that are nonunion, that are not subject to the state's prevailing wage law, what they



September 9, 2008

1 pay their employees. So I can't draw a correlation between quality of work and hours
2 paid, and I'm not familiar with the specific contracts that Frederick may have let and
3 what the difference was there. It's hard for me to draw a direct correlation between, in
4 answer to your question, between whether it was a union regulated wage shop or it was
5 a nonunion unregulated wage shop and the quality of their work.

6
7 Councilmember Andrews,

8 If the argument is that these, and I'll finish shortly, if the argument is that these wages
9 should be guaranteed, wouldn't it be useful-to-know what the wages are now so that
10 one can compare the difference. I realize you don't have that information. I'm saying it
11 would be better to have it, and it doesn't give me any comfort that we don't have it and
12 to hear assurances that it's not going to cost any money.

13
14 David Dise,

15 What we did get was representative wages from associations representing the various
16 construction industries, the union shops and the nonunion shops. We did get some
17 ranges of wages. And they were not appreciably different.

18
19 Councilmember Andrews,

20 One other concern I have is that this ties us to these wages that are determined by the
21 state, unlike the Living Wage Law where we set the wage based on what we think is
22 appropriate. Thank you very much.

23
24 David Dise,
25 Sure.

26
27 Council President Knapp,
28 Councilmember Berliner.

29
30 Councilmember Berliner,

31 Mr. Dise, you weren't with us this morning when we did have this frank and candid
32 exchange with the County Executive with respect to our budget situation, but needless
33 to say, it is something that is a concern of all of us. And the County Executive is a
34 strong supporter of this legislation, is he not? So could you help us reconcile the
35 concerns with respect to the budget implications and the County Executive's strong
36 support? One, do you accept the premise that it will increase and if you accept that
37 premise, does the County Executive believe that the public policy that is advanced by
38 this legislation is worth the cost that could be incurred? And to give expression to what
39 that public policy objective is.

40
41 David Dise,

42 Sure. Let's see if I can address those on an individual basis. It is the County Executive's
43 position that he does support this legislation. It does ensure some uniformity of wage, it
44 does ensure some equity of wage, and in some respects similar to the living wage, it



September 9, 2008

1 does help prevent an abuse of wage where, particularly in labor categories, the lower
2 labor categories where individuals may be abused, it does ensure that the County is, in
3 fact, paying for those services that are rendered. Relative to the impact of cost on the
4 County's capital improvement program, I believe even in the Council Committee
5 hearings, we would not guarantee that there would not be a cost increase. It's our sense
6 that based upon the investigations we have made and the competitiveness of the
7 marketplace in the Washington D.C. metropolitan area that to get qualified labor, you
8 are paying good wages and that the overall spread of hourly rates by labor category,
9 union or nonunion, are marginal at best. The other thing that this Bill does provide
10 because it falls under those categories is the benefits provided to construction workers,
11 which are not necessarily guaranteed otherwise. But, so it does provide for equity, it
12 does provide for some uniformity, and there's no indication that we have simply because
13 we don't know that, but have a sense that the competitiveness in the marketplace in this
14 area would norm those costs. However, I will concede that the studies indicate that
15 there could be an initial increase. We would expect that the competitiveness of this
16 industry, and again understand that we are bidding out approximately \$100 million in
17 capital projects annually. And the competition for that business is stiff. And so, at any
18 one point, we have got about 100 million out of the \$300 million CIP in operation. And
19 the market place will create some standardization in those rates once this Bill passes,
20 we are pretty confident of that.

21
22 Councilmember Berliner,
23 Thank you sir.

24
25 Council President Knapp,
26 Councilmember Trachtenberg.

27
28 Councilmember Trachtenberg,
29 Thank you, President Knapp. Well, this is a piece of legislation that I very quickly added
30 my name on to as a cosponsor, and I want to thank Councilmember Ervin for her
31 leadership on this. I want to also acknowledge a lot of the folks that are in the audience
32 that actually come from the labor community. On this particular Bill, I respectfully
33 disagree with some of what was advanced as theory by, and fact by my colleague, Vice-
34 President Andrews. I know there are issues that have been raised about prevailing
35 wage in terms of an increase in construction costs and obviously also the cost of
36 auditing. But the evidence is really clear. There are a lot of fine studies that have been
37 done over the years about this best practice, and there are facts that are indisputable.
38 And one is that the prevailing wage regulations do not in all cases increase wages. That
39 is a fact. That average labor costs including benefits and payroll taxes are around one-
40 quarter of construction costs, and even if a prevailing wage regulation raised wages by
41 as much 10%, the impact on contracts would be minimal, probably less than 2%. I have
42 looked at a few studies, and one of the things that is striking to me is that there is
43 improved productivity. In fact, some of the studies that I'm going to talk about later this
44 afternoon, we have a press conference, relate to road projects, and it is shown very



September 9, 2008

1 clearly that actually those projects are completed faster and that there's much more
2 efficiency in terms of how they are staged. So I really think that it's important to
3 remember here that that increased productivity offsets higher wages. And you know, in
4 a nutshell, I think that there are things to consider, not just that this is a best practice,
5 but that there's evidence clear to everyone that there are reduced occupational injuries
6 and fatalities. There's an increased pool, and this is very important, of experienced and
7 skilled construction workers, and that there is actually evidence of increased tax
8 revenue, state tax revenue. And that is good for this County. So it is with that in mind
9 that I, from the very beginning, supported this piece of legislation. I believe it's a best
10 practice that has been utilized successfully by a host of other jurisdictions, and I would
11 encourage my colleagues to support the Bill at this time.

12
13 Council President Knapp,
14 Councilmember Leventhal.

15
16 Councilmember Leventhal,
17 Yeah, I also want to thank Councilmember Ervin for introducing this Bill. I really want to
18 thank Mr. Dise. It's a great pleasure working with Mr. Dise. He's very knowledgeable,
19 he's a nationally recognized expert in the field of procurement. We saw here this
20 morning again his intellect on display. I think the point that he makes about this
21 experiment that Frederick County did is extremely relevant here, that of course, if
22 Frederick County publicizes the fact that we are testing how prevailing wage works and,
23 therefore, we will entertain bids under the prevailing wage, and the prevailing wage is
24 posted and anyone can get it, then certainly some of the same contractors and
25 associations representing contractors who we have heard from who, let's face it, don't
26 enjoy working with labor unions and don't want to be unionized, don't want their work
27 force unionized, and are campaigning against anything that may facilitate organization
28 of the work force, that some of those firms would come in under prevailing wage. It isn't
29 hard to do. But over the long term, the likelihood that you would achieve significant cost
30 savings by not having prevailing wage seems unlikely. And I'm just repeating what Mr.
31 Dise said but I think it's an extremely important point. The prevailing wage by definition
32 is the blended average of the wages already being paid. The firms that we are likely to
33 receive bids from are highly likely to be the same firms that are bidding on federal
34 contracts, District of Columbia Government contracts, and Prince George's County
35 Government contracts, all of which are covered by the prevailing wage. The likelihood
36 that there is a unique niche of low-cost contractors in Montgomery County, which has
37 got to be one of the highest cost counties in America, seems slim to me. I don't think it's
38 very likely. So over the long term, the idea that by keeping Montgomery County a non-
39 prevailing wage County is going to lead to lower costs just seems unlikely to me
40 because we're in a market that's already mostly covered by the prevailing wage. The
41 federal requirement was established in 1931. This is not some radical new concept.
42 Now, let me just say, here's what's going to happen. Okay, the Bill already has more
43 than five cosponsors. The Bill's going to pass. It's going to pass significantly. But a small
44 minority of Councilmembers it appears, based on comments we have heard this



September 9, 2008

1 morning, are going to vote against it. Those Councilmembers who are against the Bill
2 are going to be quoted in the newspaper. So there will be, the perception is conveyed
3 that this is some highly controversial issue when in fact all we are doing here, I think, is
4 correcting an oversight. I was surprised when the carpenters union came to me and told
5 me we didn't have prevailing wage in Montgomery County. I'm very familiar with the
6 policy debate back in the 1930's that led to the Davis Bacon requirement at the federal
7 level and surprised that we didn't have it here in Montgomery County when we have it in
8 D.C., when we have it in Prince George's. So I don't think we're taking a very
9 controversial step here, and yet because it apparently won't be a unanimous vote, the
10 impression that's going to be conveyed is that we're having some big dispute over
11 protecting the taxpayer yet again. So, you know, I know how these things are played.
12 I've read a lot of these news stories covering this, but in fact, an overwhelming majority
13 of the Council is clearly going to vote for something that is consistent with what local
14 and federal governments and state governments are already doing throughout this area,
15 and we are not making a major change in the labor market, and I don't believe that what
16 we are doing is going to have a long-term effect on costs.

17
18 Council President Knapp,
19 Thank you. Councilmember Praisner.

20
21 Councilmember Praisner,
22 I would agree that this motion is going to pass, but it will not pass with my vote. You
23 know, we talked about budget this morning, and everybody's mind is on the budget, and
24 I think my colleagues are suggesting that this will have no economic impact. I've heard
25 that time and time again with projects that, oh, don't worry about it, we'll come under
26 contract only to find out we had to appropriate more money to pay for it. I think this is
27 the wrong time to pass such a Bill. I am not persuaded that it will not have any
28 economic impact on the County, and I will vote against it.

29
30 Council President Knapp,
31 Thank you. Councilmember Ervin.

32
33 Councilmember Ervin,
34 I just wanted to bring the Council's attention to a comment that Councilmember
35 Andrews made just a little while about Frederick County Public Schools and Carroll
36 County Public Schools regarding prevailing wage and what we noted in the packet on
37 page four, our Council staff had written in the packet something that I wanted to bring to
38 everybody's attention. And that is these projects that he wrote about in the packet did
39 not include the end results regarding change orders or final costs. We were just talking
40 about low bid. There's a big difference in that issue, so I just wanted to be very clear
41 that Council staff wrote in the packet didn't really like lay the whole piece out about
42 Carroll County and Frederick County and so, we don't know at the end of the day if
43 those bids came, if they would have included change orders and final costs, how those



September 9, 2008

1 bids would have actually come out. There's some dispute here about what's, in my
2 opinion, been written in the packet. I just wanted to bring that to everybody's attention.

3
4 Council President Knapp,
5 Councilmember Elrich.

6
7 Councilmember Elrich,

8 I want to thank Valerie for her leadership on this, and also I was going to make the point
9 you just made. I know some of the studies which looked at comparable, or looked at
10 contracting practices did cite the final cost rather than the bid cost, and that there were
11 significant problems with people coming back with change orders and basically radically
12 changing the cost of projects. I would say that, you know, I'm in a city that actually had
13 an experience with a project that was bid at \$6.5 million and wound up being \$12
14 million. And that was a most unpleasant process. I think we were nickel and dimed for
15 every possible change order somebody could possibly imagine and in think that's, one
16 of the studies identify that as a not unusual practice. I think it is somewhat analogous to
17 the situation with outsourcing jobs, and, you know, the notion of privatizing jobs in the
18 County. Yes, we can find cheaper providers of jobs. But again, when you look at who
19 provides the cheaper jobs, they provide them at wage levels that make it impossible for
20 people to actually live and work in, or survive in the County. There's an indication that at
21 the upper levels of really skilled work, there's not much difference in wages. But, you
22 know, we have heard issues, and Phil, you and I have talked about what happens at the
23 lower level of construction and whether they are actually bringing in construction
24 workers not even abiding by the minimum wage laws or the Living Wage Law that we
25 passed, and it's one of the reasons that we asked staff, Executive staff to look at
26 compliance with the Living Wage Law because we had concerns in construction
27 whether those things were being done the way we envisioned, that kind of work being
28 done. So, I think that if the Council, I mean, we are concerned about how these
29 construction projects play out. We had a report not that long ago about the vast
30 difference between what we say we are going to pay for projects and how they have
31 ballooned into vastly more expensive projects, and we identified a bunch of other
32 factors, our own, you know, our own processes, the length of time it takes to go from a
33 plan to actual construction, that we are contributing to the radical inflation of our
34 projects, and I think we need to look at those things to achieve real, real savings for,
35 you know, County taxpayers. And that's where I would focus my attention is changing
36 our procurement and construction practices and making them more efficient and giving
37 us a better shot at making our actual PDFs look like the proposals that we were given
38 when we were told we could build a library or a school.

39
40 Council President Knapp,
41 Vice-President Andrews.

42
43 Councilmember Andrews,



September 9, 2008

1 Thank you. I just wanted to note that the packet notes that the Living Wage Law does
2 not apply to construction contracts. And that is true. When the Living Wage Law was
3 adopted in 2002, the living wage established at 10.50 an hour, that's without benefits,
4 we were advised that really there was no need to apply it to construction contracts
5 because there was not felt or there was no evidence that construction workers were
6 making less than the living wage. If anybody would like to amend the Living Wage Law
7 to apply to construction, certainly that would be, no objection to that. That's why
8 construction contracts are currently not in the Living Wage Law.

9
10 Council President Knapp,

11 Thank you. I just had a couple questions. I think one is for the Committee. If you look on
12 page 6, it says should the County award construction contracts be subject to the state
13 prevailing wage law, and one of the conversations we've talked about here in the past is
14 adding to our base budget. If I read this stuff correctly, we'll at least need to hire one
15 person to administer the contracts if we manage it, if we administer it ourselves. And so
16 I'm just curious as to how the Committee reached the recommendation that we thought
17 it was better for us to manage this as opposed to having the state administer it since
18 they already do it for a number of other jurisdictions anyway.

19
20 Councilmember Floreen,

21 We had a conversation with Mr. Dise on that subject and he persuaded us so I'm going
22 to let him persuade you.

23
24 Council President Knapp,
25 Mr. Dise. No pressure there.

26
27 Councilmember Floreen,
28 Well.

29
30 David Dise,
31 Who can I go to?

32
33 Councilmember Floreen,
34 Yeah. The County Executive, of course, would be the one in charge of managing it and,
35 of course, to the extent the County Executive didn't think that this, using the state
36 approach would be best for the County.

37
38 David Dise,
39 Yeah. Let me address that on a few different points that we, in discussions we had with
40 the Committee. Number one, the state's office is in a rebuilding mode right now. They
41 were depleted under the last state administration and budgetary constraints, and they
42 are now rebuilding and refocusing on state contracts at this time. It is not clear as to
43 when or how if Montgomery County contracts came under the state's oversight, what
44 attention those would get by order of priority. Clearly I would assume the state's



September 9, 2008

1 contracts would take precedent, but that operation is actually in a rebuilding mode right
2 now. So we are not clear exactly how much, how many resources, again, with the
3 state's own budgetary concerns, whether they would actually be able to staff up enough
4 to give us the attention that we need. Secondly, there was concern over the
5 confusion represented by separate administrative oversight of a contract and exactly at
6 what point the state's influence would take precedent over our administration of a
7 contract. For instance, if a violation was occurred and the state's intent was to either
8 terminate or reprimand or cease the work or in some way impose a penalty upon the
9 contractor that threatened the continuation of the job, could be a very important job, a
10 time sensitive or needs sensitive issue for the County, that the County was
11 subordinating its greater priority of finishing a project and not seeking alternative means
12 for the contractor to make right its abuse should it have been found guilty of abuse. By
13 us overseeing the contract gives us the ability to ensure that the contractors are doing it,
14 and if a violation is found, coming up with a speedy and yet equitable way to overcome
15 that abuse to resolve that and to make the employees whole without necessarily
16 threatening the continuation of the work. It gives us continued control over the project
17 that we would not have if the state was the, an outside agency coming in and effecting
18 that in some sort of penalty or other means that the state chose to rectify the fault found.
19 As to costs, the investigations that we have made, particularly out in California where
20 this law exists, we are aware of services that will perform, that we can contract out the
21 administrative oversight of this, particularly insofar as field investigations, site
22 investigations are concerned, that is actually quite affordable and would not necessarily
23 result in us needing to increase staff. We have to look at that. And one of the things we
24 want to do over the course of the next year, until July 1 of 2009, in addition to working
25 with the contractor community in rolling this out and making sure that we are equipped
26 in phasing this in appropriately is to pursue some of those outside resources and lessen
27 the immediate impact on staff.

28
29 Council President Knapp,

30 Okay, actually I was good with you up, hold on just one second, because I was good
31 with you up until the point where you talked about potentially contracting out more.
32 Because if I look at the fiscal impact statement on circle 44, it says we are assuming an
33 entry level program manager is effectively the only cost that we're going to have to
34 undertake. I guess we have a directed audit, so it would be \$36,000 per audit. You're
35 saying that potentially we're going to have to have more as far as just the oversight
36 piece than just that position?

37
38 David Dise,

39 No, I'm saying we have to decide whether we're going to do this through, we currently
40 have a wage program. We believe with some support we could probably administer this
41 through that if we had an outside enforcement role which again in, I believe the, in
42 California, the jurisdictions we looked at there, there was a percentage of the annual
43 cost, it was not a significant amount of money that was paid to do the external
44 compliance enforcement, which is a challenge that the County has had on some of



September 9, 2008

1 these other programs, our ability to staff up to do external enforcements and site visits,
2 which is something that we have to do to make sure that in fact, someone who is
3 classified as a laborer is in fact doing laborer's work and that we're not having, paying
4 laborers an electrician's wage. That's, enforcement is very important to this. We are
5 also looking at best practices in enforcement across the country for these things where
6 utilizing technology for the delivery of records and the oversight and review of those
7 records to minimize the administrative impact. We don't anticipate it to be extreme, but
8 we also want to spend these next few months looking and seeing smart ways to do this
9 opposed to just throwing people at the problem.

10
11 Councilmember Floreen,
12 Can I respond on that point?

13
14 Council President Knapp,
15 Councilmember Floreen.

16
17 Councilmember Floreen,
18 I am reminded in our Committee discussion, it was only through Mr. Drummer's eagle
19 eyes that this potential for the state administering it was identified. And what we
20 determined is that the state hasn't done it elsewhere. This would be a new initiative.
21 Plus I will draw your attention to circle 49 in the packet, which included Mr. Dise's
22 answers to the Council on this point which also makes the point that there's no certainty
23 that there would not be a cost to the County if the state were to undertake this as well.

24
25 Unidentified
26 That's correct.

27
28 Councilmember Floreen,
29 So the concept of savings in this regard is not, is not by any means.

30
31 Council President Knapp,
32 Correct.

33
34 Councilmember Floreen,
35 We don't know that that would be a reality or not.

36
37 Council President Knapp,
38 Okay. Then I just to clarify, MCPS is covered under state law and is exempt from the
39 prevailing wage? Is that what you, I just, you made some reference to that in your
40 opening comment and I just wanted to.

41
42 Councilmember Floreen,
43 Yes.



September 9, 2008

1 Council President Knapp,
2 Or are they just covered under state law?

3
4 Robert Drummer,
5 They are covered under state law. The state law is if the contractor is more than 50%
6 state funded, then the prevailing wage law applies. [multiple speakers]. That happens.
7 But that's why Frederick and Carroll County bid the project out both ways because they
8 were near the edge and weren't sure whether they were going to get more than 50% or
9 not depending on the bids, so they bid it out both ways. But there are counties where it
10 does apply, and in those counties, then the state would enforce its prevailing wage law
11 and the County would run the contract.

12
13 Council President Knapp,
14 Okay. And then my last question was, and this is just I guess a practical
15 implementation, I'm not even sure the right person to ask, one of the things in talking to
16 people that I guess I was struck by is that having the notion of prevailing wage as far as
17 how contracts are put together, I get and I understand, but it also means that you don't
18 get, I think, as far as I understood it, you don't get a lot of gradation between the
19 employees themselves. So that if I am hired as a new person, as opposed to someone
20 who has been there for a long time, am I effectively paid the same rate even though I
21 have got 15 more years of experience and presumably I'm better at it as the person who
22 has just come in the door? That was good. I like that. I mean, as someone who's
23 managed folks, I just, I'm just curious as to how that works. Because that implicitly
24 doesn't make sense to me.

25
26 Robert Drummer,
27 The prevailing wage law prevents you from hiring what they call a helper or a trainee.
28 So you have to, I mean, you have to, you can't use a helper or a trainee and pay them
29 less than you would normally pay. You have to pay an apprentice who is a trainee under
30 a specific program learning the trade or a journeyman or a mechanic, in all the different
31 trades. The prevailing wage is just a minimum wage, you know, it's a floor.

32
33 Council President Knapp,
34 Right.

35
36 Robert Drummer,
37 That you have to pay, you know, these rates here are for the mechanics. You can pay
38 somebody more than that, and I'm sure it happens. But.

39
40 Council President Knapp,
41 Well, I guess that's my question.

42
43 Robert Drummer,
44 Like I say.



September 9, 2008

1
2 Council President Knapp,
3 Practically, is the floor the ceiling?

4
5 Robert Drummer,
6 But that's a possibility. If the floor is too high, it can become a ceiling. But certainly, you
7 can pay more than the floor. It's just a, it's a floor. It's not a max.

8
9 Council President Knapp,
10 We don't really know.

11
12 David Dise,
13 Yeah, these, again, as rates set by the state, these are the rates that we can expect or
14 we can plan on. And these are the rates that we would look for in reviewing certified
15 payrolls to make sure that they were minimum. It's absolutely possible for, and I would
16 expect that in this area in particular where skilled master plumbers, master carpenters
17 are hard to find, that the very best are probably getting more for their skill sets. But this
18 is what we would look for in reviewing certified payrolls to ensure that as a minimum,
19 this was being paid.

20
21 Council President Knapp,
22 Councilmember Leventhal.

23
24 Councilmember Leventhal,
25 Well, your last question was the same question I had. If you look at this addendum that
26 we got here that actually has the State of Maryland wages, there is not a category for
27 apprentice. But apprentice is in the trade, that is, you're learning, you're an apprentice,
28 you're paid less, once you in effect graduate, then you are entitled to the wage in that
29 category that you are now trained to perform. Is that, have I stated that correctly?

30
31 Robert Drummer,
32 Yeah, an apprentice is not in these wage rates because an apprentice is paid a
33 percentage of these rates.

34
35 Councilmember Leventhal,
36 Okay.

37
38 Robert Drummer,
39 A certain percentage.

40
41 Council President Knapp,
42 As a part of this prevailing wage law?

43
44 Robert Drummer,



September 9, 2008

1 Yes. Yes. It's covered. They just give you the mechanics, they give you the mechanics
2 rates, and then the apprentice is a percentage of that.

3
4 Councilmember Leventhal,
5 Okay. That gets to your point. If you're learning, then you're classified as an apprentice.
6 If you're considered to have graduated and you know the skill, then it's still a
7 competitive market for wages but this is the floor for what you would earn in that
8 category, but there is a period of time, you don't just walk in the very first day on the job
9 because you haven't been trained yet.

10
11 Council President Knapp,
12 Right.

13
14 Councilmember Leventhal,
15 If you're an apprentice, you get paid less.

16
17 Council President Knapp,
18 Okay, Councilmember Floreen? Okay, I see no further comments. In light of that, I see
19 no other motions. I would ask the Clerk to call the roll. Before I do that, I just wanted to,
20 we've also been joined by Delegate Tom Hunker from District 20, right?

21
22 Councilmember Floreen,
23 Yep.

24
25 Council President Knapp,
26 Just wanted to make note of that. Madam Clerk, if you would call the roll.

27
28 Council Clerk,
29 Mr. Elrich.

30
31 Councilmember Elrich,
32 Yes.

33
34 Council Clerk,
35 Mr. Praisner.

36
37 Councilmember Praisner,
38 No.

39
40 Council Clerk,
41 Ms. Floreen.

42
43 Councilmember Floreen,
44 Yes.



September 9, 2008

1
2 Council Clerk,
3 Ms. Trachtenberg.

4
5 Councilmember Trachtenberg,
6 Yes.

7
8 Council Clerk,
9 Mr. Leventhal.

10
11 Councilmember Leventhal,
12 Yes.

13
14 Council Clerk,
15 Ms. Ervin.

16
17 Councilmember Ervin,
18 Yes.

19
20 Council Clerk,
21 Mr. Berliner.

22
23 Councilmember Berliner,
24 Yes.

25
26 Council Clerk,
27 Mr. Andrews.

28
29 Councilmember Andrews,
30 No.

31
32 Council Clerk,
33 Mr. Knapp.

34
35 Council President Knapp,
36 Yes. Bill 21-08 is passed seven to two. Thank you very much. Congratulations to those
37 who were the supporters and cosponsors. We now turn to a Briefing on National Capital
38 Region Climate Change Report. This is put out by the Council of, Washington
39 Metropolitan Area Council of Governments. We have actually strong representation on
40 this Council as it relates specifically to this Climate Change Report, the Chair of
41 Committee who managed, put together the report, Councilmember Floreen, is here as
42 well as Councilmember Berliner who is a member of the Committee. This is really an
43 attempt to, for the Council of Governments to come up with a regional response for, we,
44 all of our governments to work together to address the global climate change issues. I



September 9, 2008

1 wanted to thank Councilmember Floreen and Councilmember Berliner for their time and
2 efforts in putting this together. I think it is a significant step forward. But this is a draft
3 proposal that has been submitted to of all the various governments for comment and
4 feedback and, if I understand correctly, virtually all of the local governments are
5 receiving similar briefings so we can provide feedback directly to the Council of
6 Governments. And so I think that is exciting in and of itself. We don't tend to have that
7 direct kind of one on one interaction on specific issues like this. And so I think that's
8 very good. But I will turn to Councilmember Floreen for some brief remarks then quickly
9 to Councilmember Berliner before we turn it over to our folks from COG who I'll then
10 introduce.

11
12 Councilmember Floreen,

13 Thank you very much and let's just note for the record that our Council President is also
14 the Chair of the Council of Governments so that he runs a lot of meetings, both at the
15 County level and at the regional level. I do appreciate the honor of Chairing the Climate
16 Change Steering Committee over the past year which is really an effort to bring together
17 all 21 jurisdictions which comprise COG into some agreement as to the direction that we
18 can take as a region to address climate change. Luckily for us, we have the Executive
19 Director, David Robertson, and the head of the Environmental Planning Department at
20 the Council of Governments, Stuart Freudberg, to help us through a thorough evaluation
21 of all the issues associated with climate change, certainly an area that this Council has
22 been involved in for many years, and our member Mr. Berliner has taken a special
23 interest in this and led us in a variety of additional initiatives which we are very proud of.
24 Our challenge though is as one County out of 21 jurisdictions, we alone can't solve all of
25 these challenges. What this effort has been is really to create an amalgam of initiatives
26 that have been adopted at various jurisdictions across the region, but not all, to bring
27 folks who are not really quite at the table into the environment of addressing climate
28 change. The good thing for the Council of Governments is that this encapsulates many
29 of the initiatives that we've already been working on for many years, not to minimize
30 them, but to give it new energy within the community at large, and I think that is an
31 excellent thing. So, what the Committee has recommended that the Council of
32 Governments adopt, we are in the public comment period. We tend to vote on a lot of
33 stuff down at the Council of Governments. We don't always share it with our colleagues
34 at home as to what the regional policies are. One of our priorities here was to make
35 sure that all our jurisdictions were educated as to the initiatives here and the proposals
36 that are on the table. The Council of Governments is not a regulatory body. So it can't
37 adopt rules that force local to jurisdictions to take certain kinds of actions, but it can job
38 on them and create an educational environment that supports these hard decisions,
39 frankly, by jurisdictions throughout the region. In a nutshell, what the report
40 recommends is that we reduce, as a region, reduce greenhouse gas emissions by 10%
41 by 2012, basically to eliminate increases in greenhouse gas emissions and then to go to
42 a 20% reduction from a 2005 level by 2020 and ultimately an 80% reduction in
43 greenhouse gas emissions by 2050. You will note at the end of, at least our packet, and
44 Stuart and David are going to take us through some of the details here, it shows a list of



September 9, 2008

1 proposed actions and goals to be adopted by jurisdictions, with what is importantly,
2 showing where you get the most bang for the buck evaluating emissions reductions,
3 achievement, how you get it done, where the cost is on the scale of doing things, and
4 then the economic co-benefit so it is a very thorough analysis of a variety of approaches
5 that everyone has put on the table. It is our hope that the Council of Governments will
6 agree that this is so important to the region that it will create a Committee, bless us,
7 another Committee, that would steer the region through this. Right now, we do that with
8 respect to air quality and transportation. The air quality obligations are set out under the
9 Clean Air Act. As you all know, the feds have not adopted greenhouse gas emissions
10 standards really for the nation, so regions throughout the country are struggling with
11 how they can achieve those on their own without the help of any consistent federal
12 standards. No doubt that will change in the next year, but we intend to be at the plate
13 and quite ready to move us forward. Those are my preliminary comments and I'd ask
14 Mr. Berliner to weigh in. We are extremely lucky to have Roger with his particular
15 expertise in the federal energy legislation front. He has been our unpaid lobbyist, I
16 believe, in a very productive and helpful fashion. I will turn it over to Roger and then to
17 the.

18
19 Council President Knapp,
20 I'm sure he'd be happy to modify that.

21
22 Councilmember Floreen,
23 Yeah, I know. We can fix that part.

24
25 Councilmember Berliner,
26 Well, let me first begin by commending the leadership of this Council in terms of the
27 actions we have taken, but on COG itself, how fortunate we are to have the President of
28 COG and to have had Councilmember Floreen be the Chair of this particular
29 Committee. We really owe you guys a lot because it takes a lot of time. Councilmember
30 Floreen worked very hard with respect to this and we have superb COG staff. I have
31 been involved in a lot of organizations over my time and this is as professionally run,
32 operated, it is really a top shelf operation and this report I think reflects that. So it is a
33 pleasure to have you gentlemen here. I just wanted to share very briefly a couple of
34 observations that I think are noteworthy in this report. The first of which is on page three
35 in the summary and I will quote it. While climate change concerns provided the
36 foundation for the action plan recommended in this report, the Committee also notes
37 that many, if not virtually all, of the recommended actions will provide very significant
38 benefits and will enhance the future of the region's quality of life, irrespective of whether
39 the anticipated climate changes materialize as predicted. The bottom line here,
40 everything that this report recommends we should be doing, we have to do for so many
41 different reasons and climate change crystallizes those reasons, but those reasons exist
42 independent of climate change. And so these recommendations are critical to improve
43 the quality of life, period. The other observation in this report that I think is important is a
44 sobering one. That is on page eight. Which is, all the measures that we've come up with



September 9, 2008

1 so far get us a little more than half the way there. We have a lot of work to do. This is
2 not going to be easy stuff, to get the kinds of reductions that we need, which are, by
3 most people's estimates, less than what is actually going to require because our target
4 is 80% and quite frankly, that target was set without fully appreciating the extent to
5 which the polar ice cap is melting so much faster than people realized. If we were to
6 come up with that calculation again, 80% wouldn't be enough, 90% might be enough,
7 but this is serious work that we have to do. Even as aggressive as all these
8 recommendations are they get us a little more than halfway there. The promise of
9 course, is also identified on page nine, which the Mackenzie Study identified, which is,
10 we can get there. Sixty something percent of our emissions are in our buildings and we
11 control how efficient our buildings are. And we can help our residential homeowners and
12 our commercial sector make the modifications that are necessary to retrofit their
13 buildings. That is the lowest of the low hanging fruit, that's the most cost effective
14 measures that we can do and we have to go about it aggressively. The timing of this
15 report is also interesting because tomorrow night marks the kickoff of the County
16 Executive's sustainability working group session, and I have the privilege of being the
17 Council's representative on that group. And tomorrow night we will begin the work of
18 this County in moving forward with a climate action plan, which I hope will again focus
19 on the lowest hanging fruit and on our building sector in particular as well as the land
20 use, the vehicle miles traveled sets of issues that are going to be so important for our
21 community as well. This is important work, this is good work that this organization has
22 done and I am proud to have played a small part in it and look forward to working with
23 my colleagues on getting to the next level.

24
25
26 Council President Knapp,
27 Very good. Council Vice-President Andrews?

28
29 Councilmember Andrews,
30 Real quick. I think that the gentlemen at the table probably think there is a filibuster
31 going on. I appreciate the leadership of my colleagues. I would like the folks at the table
32 who joined us who I have had the pleasure of working with – and COG as well, to
33 address the impact of how this will effect evaluation of highways. I'll just remind people
34 that the ICC is projected to add 529 million miles of VMT by 23rd annual basis, it was
35 not subjected to climate change analysis as far as I know. So, that is a step in the wrong
36 direction in terms of reducing VMT and making an impact here. What, how will this
37 apply to highways that are being planned now or aren't yet under construction in terms
38 of its effect on them? I would like that to be part of what you address. Fold that into your
39 report. [talking over each other]. Be great. Okay.

40
41 Council President Knapp,
42 Okay.

43
44 Councilmember Andrews,



September 9, 2008

1 Thanks.

2
3 Unidentified

4 I am sure he will.

5
6 Councilmember Andrews,
7 All right.

8
9 Council President Knapp,
10 After those brief introductory remarks, we now turn it over to our experts. Thank you
11 very much for coming out to join us.

12
13 David Robertson,
14 Thank you very much Mr. President and members of the Council. I will just make
15 perhaps three quick points and then let Stuart walk you through a little bit of the study,
16 although Councilmember Floreen did a great job of hitting the highlights, and certainly
17 Mr. Berliner as well. Three real quick points. First is that the outreach that we are doing
18 around this effort is really a bit unprecedented and I think the President acknowledged
19 that. The Council of Governments is a great forum for bringing people together but we
20 are not, frankly, as effective as taking that message out to the community. We think
21 these outreach meetings that we've commenced yesterday was the first day, we did
22 Fairfax County in the morning, we did Takoma Park yesterday evening, the Council
23 today, we have got Alexandria this evening, and so forth. We will hit all 21 of COG
24 member jurisdictions. Apart from the value of working with local Boards and Councils,
25 and that is tremendous value, there are a lot of residents of our communities that are
26 watching these sessions, that will also be made aware of this information. We have put,
27 and Stuart will touch on this a little more, we have put this information out on our
28 website, we are working with the Board of Trade and a number of community and
29 stakeholder groups, environmental groups, business groups, and others to take this
30 message out. Because that really ties to my second point which is, and I think
31 Councilmember Berliner acknowledged this, these are going to be stretch goals, stretch
32 goals for COG as an organization, stretch goals for the region, for the state, for this
33 community, for our country, and frankly for the global community. And while there are a
34 few low hanging fruits that we can grab pretty quickly, the rest are going to be stretch
35 goals. And to do that, if we're going to make those tough difficult policy choices, and the
36 revenue choices that may have to go with those, we are going to have to have a lot
37 more supporters on this issue than perhaps what we have had to this point but the world
38 is changing. I suspect many of you, because I work with you, noted in Sunday's
39 Washington Post in news from California, Senate Bill 375, that looks like it may be
40 enacted in that state, that would integrate, for the first time, land use, environmental,
41 and transportation issues. We have gotten close to the edge every now and then at the
42 Council of Governments in taking up that issue but it has been one that we have not
43 been able to, again, bring together the coalition of support around. But think, you know,
44 of the possibilities if we can prioritize transportation investments, getting to Mr. Andrews'



September 9, 2008

1 point around the areas that integrate with our environmental and air quality goals and
2 our land use goals. And I know that has certainly been the aspiration of this County but
3 it is difficult to do at the Metropolitan scale and even more so at the state level. I think
4 the work that we're seeing through this climate change has the potential to integrate the
5 work at the Council of Governments in ways that we have heretofore not done as well
6 as we perhaps could. And then the last part really gets to the business as usual at
7 COG. I think this has the potential to transform the structure and the nature and the
8 purpose of the Council of Governments. I am very proud that we are a voluntary
9 association as Councilmember Floreen mentioned, we don't have regulatory authority,
10 and not looking to necessarily turn COG into that type of, sort of heavy handed
11 organization, but I do believe we have the capacity to pull together our members in
12 ways that we haven't in the past, to lay out a common vision for what we should be
13 doing, to then monitor progress. If it is important enough to measure, my guess is it is
14 important enough to achieve. But we have to stake those goals. We have to figure out
15 what are the targets or the milestones or measures that we need to reach those goals.
16 We have to have that done in a transparent process so we share information between
17 and among jurisdictions and I suspect part, regardless of whether COG has any extra
18 authority coming out of this or not, and it may well not, that is probably okay, the bully
19 pulpit role, the sort of peer review role I think is going to cause all of us to march more
20 rapidly and in a better direction. So just a little context, I am very proud of the work that
21 we have been doing this past year. So, it has been a heavy lift for many of you and
22 certainly for the staff. I think we are on the right path and I think coming out of these
23 outreach meetings we are going to have a stronger coalition of support and when the
24 Council of Governments takes a vote on this in November, I suspect we are going to
25 have a strong regional statement for moving in this direction and then look forward to
26 working with you for what will clearly be the difficult challenge ahead which is how do
27 we make it happen. But Stuart will touch on that and then we are both available for
28 questions, thank you.

29
30 Stuart Freudberg,

31 Thank you, and thank you President Knapp and thank you Councilmember Floreen and
32 Councilmember Berliner for leading us in the right direction on this effort. I do appreciate
33 it. We have a, as per usual at COG, a long PowerPoint presentation but we are going to
34 give you the short version so there is some time here for questions and dialogue.
35 Councilmember Floreen already mentioned the overarching goals. I'll touch on those
36 quickly again. Councilmember Berliner mentioned that we've attempted to quantify a
37 number of measures and how far they get us. I will tell Councilmember Berliner that we
38 are still working on that and trying to nudge that well beyond the 50% point. The
39 beginning few slides talk about how we got here, the leadership of our Board, who is on
40 the Committee from around the region and Keith, I'm just going to kind of zoom through
41 these things. From the County where Councilmember Floreen and Councilmember
42 Berliner, we did have technical support from Eric Hoffman as well, on the Executive
43 Branch side, very, very important, very helpful. We did a best practices report, which I
44 think I left a couple of copies and this County is certainly the top of the list in leading



September 9, 2008

1 those best practice efforts. We took on, with our unpaid lobbyist assistance, some
2 federal energy and climate legislation and we had some success, we got block grants at
3 least authorized, hopefully we'll get them, we got them, we need to get them
4 appropriated. We got cafe standards which are really an important step in making cars
5 cleaner and more efficient. We tried to get in the way of the – County coal fired power
6 plant in southwest Virginia. I don't think we were successful there but I think there is a
7 big push toward renewables even in Virginia and I think that we made some impression.
8 The, a number of the slides, and we mentioned, we are taking this on the road to every
9 COG member, not everyone is as familiar with this County, with the potential, Keith I am
10 on slide eight, with the potential for climate change, what is causing it, what the impacts
11 are both locally and globally. And as a result, we do have a much more elaborate
12 background especially for some of the more skeptical folks out there, to help them see
13 that there's a huge buildup in Co2, there is temperature rise going on, we're seeing it in
14 the Chesapeake Bay, we are seeing climate change locally, we're seeing sea level rise
15 already, and so we provide all that evidence to them. I am happy to answer questions
16 but we'll sort of skip through that. We did an inventory, which is slide 13, one-third
17 transportation, about 65% fuel use and electricity, and that fuel use is things like natural
18 gas, industrial fuel use, the transportation fuels are in the 30%. And as Councilmember
19 Berliner pointed out, our buildings, 60% or more of our greenhouse gas emissions, a
20 tremendous place to get reductions. We then forecasted the future, it does not look
21 pretty, up 43% by 2050 without action. Then we get into our report recommendations.
22 Councilmember Floreen, you'll be happy to know the staff is working on trying to
23 consolidate and integrate the 78 recommendations down to something a little bit more
24 manageable. There is a table that was referred to that does show, it's table eight at the
25 end of the report, it's also ES1, that lists all 78 measures, their emission impact,
26 implementation, timing, cost, economic co-benefits, and partners. This effort is not a
27 government effort by itself, only 4% of the emissions come from government roughly
28 speaking, 96% is from business and community and Industrial activity. So government
29 needs to lead. You are leading on much of this, but ultimately, if we are going to get our
30 80% reduction it's going to be a national effort, it's going to be state effort, it's going to
31 be business effort, it's going to be new technology, it's going to be individual effort. So it
32 is a partnership in many, many ways. In terms of the goals, slide 16, Councilmember
33 Floreen mentioned them, we had a lot of discussion on these goals. And we ultimately
34 I'd say coalesced around something akin to the -- County's levels which is capping
35 emissions in 2012, at this case 2005 levels, reducing them 20% below 2005 levels by
36 2020, which is amazingly just around the corner, it's almost only 10 years away. So that
37 is a tall order, because that is about a 35% reduction off business as usual. And then,
38 more of an aspirational goal clearly, and maybe it needs to be 90%, Maryland adopted
39 90% for 2050. Essentially we have got to just get rid of all our greenhouse gas
40 emissions if we're going to stop this problem and not have, you know, thirty 100 degree-
41 days in the year 2075 with all of the downsides. In terms of the specifics in the report,
42 we divided them into a number of areas, energy and transportation and land use are the
43 primary ones, three ways to deal with energy, greenhouse gas emissions, improve
44 efficiency, reduce energy demand or develop clean alternatives. So either you have to



September 9, 2008

1 use less energy or you have to find options that don't produce greenhouse gas
2 emissions in the first place. Every single one of our recommendations includes local
3 government leading by example. In this case we listed our regional green building policy
4 which was adopted by our Board a little less than a year ago, lead silver for all
5 government buildings and lead certified plus, which has some energy specific
6 prerequisites, for the private sector. I know this County has taken a real lead on lead,
7 and that is critical for dealing with new buildings, but retrofitting existing buildings which
8 is where most of our energy use is, is really the area that we have also got to focus on.
9 We've talked with some of the folks at Hann and Armstrong that are financing 500
10 buildings in this region and retrofitting them. We're hoping that we can expand that
11 program, the fact that there is private capital willing to invest is very important. In terms
12 of reducing demand, the report calls for finding ways for local governments to reduce
13 their energy use by 15% by 2012, very, very soon. The State of Maryland law calls for a
14 reduction of that level by about 2015. We are working on streetlight replacement. We
15 are working with this County, among others, in getting rid of the very energy inefficient
16 streetlights and moving forward in that area. Another one is not just public buildings and
17 private sector buildings, but individuals, your home, and Councilmember has on her
18 website a whole discussion of her experience with getting an energy audit. The energy
19 audit is not that bad but it's then what comes next. And we have actually begun some
20 discussions here as well in trying to develop a regional initiative to help people get
21 audits and find the financing to implement the retrofits which the Mackenzie report
22 shows, in many cases, actually will pay dividends on the downstream and time, but it's
23 that up-front capital barrier that we have got to find ways to address. And so that's, you
24 are seeing that firsthand in your own house.

25
26 Councilmember Floreen,
27 Just got the proposal.

28
29 Stuart Freudberg,
30 Yeah, so now we just have to find someone to help jump-start the financing there. And
31 then clean energy alternatives, the report is fairly aggressive calling for a 20%
32 renewable portfolio standard across the region which does not now, exist in the District
33 or in Virginia. It just passed in Maryland. It is an aggressive goal. If you actually figure it
34 out, it means almost all new energy sources would have to be renewable between now
35 and 2020 or 2022, which is somewhat akin to what former Vice-President Al Gore has
36 suggested. He wants to change everything over but even just the new energy sources
37 would have to be changed under this recommendation. And then local governments
38 buying 20% of their energy from renewable, is a specific recommendation in here, we're
39 hoping to use our cooperative purchasing program for that purpose. Transportation,
40 increasing fuel efficiency, reducing VMT, or using alternative fuels are the way to do it,
41 and in terms of Vice-President Andrews' specific question, the report in the land use
42 section, which actually is the next slide, I will just quickly turn to that, calls for several
43 things, not all of which are listed on the slide. I will try to enumerate them. One is that
44 there would be a methodology developed that individual projects, particularly



September 9, 2008

1 transportation projects, would include greenhouse gas emission evaluation as part of
2 the overall assessment just like we look at many other factors in transportation. That is
3 in the report, it's not clearly on the slide. But your local comprehensive plans would add
4 greenhouse gas emission evaluation as part of it. And then our most controversial on
5 the transportation side is getting the Transportation Planning Board, at this point, the
6 Regional MPO, the Metropolitan Planning agency that decides how to spend the
7 region's transportation money, to voluntarily adopt a conformity style process for
8 transportation. What that means in English is setting a limit on greenhouse gas
9 emissions regionally in the transportation plan, just like is done for traditional air quality
10 measures at this point. It is not mandatory in law yet. It may very well become
11 mandatory. But we have asked that they do it voluntarily now, and then when they
12 evaluate the plan every year, that they would look at in aggregate at least greenhouse
13 gas emissions. That is our foray. There is I think some consternation, not surprisingly, in
14 the transportation community about it. But the report is fairly aggressive and fairly
15 aggressive for certainly COG on these very points and we had a lot of discussion on
16 that. A couple other things I will just mention, preservation of tree canopy, a no net loss
17 goal for the region is included in this report. That will be a real stretch goal. I know this
18 County has adopted, I believe, a goal of no net loss or is considering adopting it.

19
20 Councilmember Floreen,
21 Getting there.

22
23 Stuart Freudberg,
24 Your friends across the river have actually in Fairfax adopted a plus 5% increase in the
25 next 30 years. They have looked at how to accomplish that. Again, there's not enough
26 public land out there to plant enough trees, it has got to be done on private land if it is
27 going to happen. Since we've been losing 28 acres per day of open space in this region
28 it's a huge order to do it. The benefits are enormous, not only absorbing Co2, but also if
29 we could increase the canopy in this region by even a few percentage points, you could
30 knock the temperature down on these hot days that we are forecasting by several
31 degrees, with lots and lots of --, including reduced air conditioning use, reduced health
32 effects, et cetera. The last group of recommendations got into financing and economic
33 development. We, I would say, to be fair, only began to scratch the surface in this area.
34 How we are going to pay for all this? Maryland actually has a way of doing it, in part,
35 which is through the Regional Greenhouse Gas Emission Program, a cap and trade
36 effort of power plants is on the verge of doing its first auction, could raise \$100 million
37 for energy efficiency programs in the state. We've recommended that Virginia and the
38 District do the same thing, it remains to be seen. We've looked at other forms of clean
39 energy funds, carbon offset funds, but this is the area that in the next round we're really
40 going to have to focus on. And we did recommend that a permanent committee be set
41 up, as was mentioned, to oversee the future effort. Last thing I would mention is that
42 particularly because in 2012 we are trying to get a fast reduction, the involvement of
43 citizens and businesses is essential and this report calls for an outreach effort, we've
44 partnered on something called the Cool Capital Challenge, which is a grass-roots level



September 9, 2008

1 initiative to get people to make commitments. We're going to have to do a lot more. We
2 have our Commuter Connections Program, we have our Clean Air Partners, but getting
3 people, and last night in Takoma Park we talked about maybe we need to give people
4 two or three things that they can do, I always like to tell people just turn off your lights
5 and your appliances and unplug your cable boxes and you probably can get your 10%
6 right there. But beyond that, you can change light bulbs, you can, hopefully, when you
7 change your car get a more fuel efficient one. There is many, many things that you can
8 do at home. But if we can figure out just two or three that will make an immediate
9 difference, I think that is easier than the top 10 or the top 78, not going to work. Where
10 are we going forward? The report is out for comment. This is a number of things we
11 hope to do in going forward under the new Committee, the regional plan for a 2012
12 goal, we have got to get done soon, and then looking at our priority recommendations,
13 more advocacy on the hill and working with our greater Washington 2050 initiative
14 which we can talk about if there are questions. The report is out for comment through
15 September 30th, the Committee will meet October 22nd and maybe the 29th.

16
17 Councilmember Floreen,
18 Really.

19
20 Stuart Freudberg,
21 It's on your calendar. It's on your calendar. Even though I believe your staff person may
22 be leaving us that put it on your calendar, it's on your calendar and we hope to get it
23 done in October, give it to our Board in November. The last slide has a very long link to
24 the electronic version of this report. All you have to do is go to mwcog.org and click on
25 the little picture of the report. It's a lot easier than that long thing. There is a comment
26 page, an electronic comment page. We have gotten some comments already, they're all
27 publicly posted. We will post everything. So there is a bit of a blog kind of effect. We do
28 screen them for making sure that they are appropriate comments, but we have gotten
29 about 20 or 25 so far. And all 21 members of COG hopefully will provide some
30 feedback. So with that, happy to take any and all questions.

31
32 Council President Knapp,
33 Thank you very much.

34
35 Stuart Freudberg,
36 I appreciate the time.

37
38 Council President Knapp,
39 I just, I had.

40
41 Councilmember Floreen,
42 Let me just say that there's been good participation from all sectors of the community
43 including very active involvement by the Washington Board of Trade. I just wanted --.



September 9, 2008

1 Council President Knapp,

2 No, the thing that was interesting to me is, and you kind of alluded to this in your
3 opening remarks David, is there's a lot of stuff that we act upon, and some people have
4 an interest, and some people don't. We had the Board retreat at the end of July and
5 invariably virtually every presentation or every conversation came back to climate
6 change and sustainability and how do we use that as the framework for setting COG's
7 agenda going forward? And that was, I mean, representatives from all of the region's
8 jurisdictions were in attendance and I thought that was very interesting, that's the first
9 time in the five years I've participated that kind of everybody gravitated back towards
10 the same foundational elements and I think that is significant. This isn't just us putting
11 something out there and wow, we ought to do this and everyone might do it someday. I
12 think there's a real genuine interest on the part of all of our jurisdictions to figure out
13 what really gets done. And you also referenced the article in the Post on Sunday and I
14 was going to follow-up with you, I've talked to our Planning Board folks about it earlier
15 this week, to get copies of that legislation and see if there is a way that we can begin to
16 modify that in some way to look at how we can – the COG Board or work with the TPB
17 because I think that is exactly what we've been talking about with connection of
18 transportation and land use, which is so integral to this, and it would be a big step for us
19 to do on a regional activity. But we ought to be exploring it. So, with that let me see if
20 there are any comments on the part of anybody. Mr. Elrich?

21
22 Councilmember Elrich,

23 I've been at some of the interesting discussions, for example, about the 2050 scenarios.
24 And I think the 800-pound gorilla in the room is real frank discussions with the
25 communities about what all this is going to cost. Because, I mean, we looked at the
26 pretty pictures and I know that your, the focus groups that are out there, the message
27 that came back from the focus groups as Ron Kirby said was, nobody believes this. You
28 know, we show beautiful pictures of transit-oriented communities, for one thing, most of
29 the growth has already occurred in the region and you're not going to change those into
30 something that they are not now. And so when you talk about building new transit-
31 oriented communities, you're talking about maybe 10%, and it leaves the larger
32 transportation problem of how to move people where they are to where they need to be
33 during the workday, you know, largely unanswered. And I mean, you showed the
34 pictures of the trolley lines and all this other stuff, and we all sat around the table, we
35 were talking about what our backlog is in unmet capital projects, let alone the kind of
36 infrastructure that it would take to support this. And I don't think we are going to be able
37 to move this agenda forward in the broader community unless we take the numbers out
38 there and have a discussion about what it's going to take to really get there, because no
39 one is going to buy the one part of this scenario without a sense that we actually mean
40 to implement it and do it. I have listened to people, you know, we talk about what the
41 projects shouldn't get into the constrained long-range, you know, plan and it looks, you
42 know, if you have got a road project everybody votes on everybody else's road projects,
43 everybody's road projects get approved, it doesn't leave much money for anything else.
44 There is going to be a need for a real -- change in the way COG thinks about things. We



September 9, 2008

1 need to get freed from the scenario where people in one County are afraid to impose
2 more stringent but necessary requirements for fear that another County won't adopt
3 similar requirements and will use that as a, you know, so-called competitive advantage
4 in trying to lure businesses to their County rather than another County. We need to
5 uniformly adopt the kind of practices that we need to adopt so that no one trades off
6 Montgomery County versus Fairfax, nobody says, you know, they're going to build all
7 the roads and they'll let everybody park in Fairfax County, but Montgomery County's
8 thinking about constraining this, I'll do my business in Fairfax. If this is going to work we
9 have got to agree to common ground so we don't race to the bottom. That is the
10 frustration with COG, as you say, you know, it's not a, has no authority. And so we all
11 talk about stuff and then everybody goes back to their home jurisdictions and weighs
12 their moves vis-à-vis what other jurisdictions are doing. So if we are going to really
13 make this a real plan, then everybody is going to have to buy into the way that people
14 have not bought in to date. I appreciate the work you have done but now we need to
15 make it real.

16
17 David Robertson,

18 Yeah, I would agree. Just a quick response to that. I think there's two trains that are
19 maybe moving down the track that may help. One is reauthorization of transportation
20 legislation at the same time that there is real consideration of Co2 as a regulated
21 emission. I mean, it may give additional tools to the MPO toolbox. And again, I think our
22 MPO process and our regional partnerships and so forth do a good job. Can we do
23 more and better? Yes, but I think there's some opportunities there if the federal sort of
24 stars begin to align. The other, and your Council President and my Board Chair
25 referenced it is, I do think the intersection of transportation land use, and environmental
26 issues is beginning to jell in ways that we haven't heard or seen before. It's by no
27 means there now, but I think we're seeing the formation of some coalitions that frankly
28 didn't exist even as recently as a couple of years ago when I know Mr. Knapp, in terms
29 of this transportation land use connections, albeit the most modest steps, were sort of
30 well, we really can't do that. And I think there is interest in doing some more substantive
31 work around that. So, it is a work in progress. I acknowledge those challenges and I'm
32 hoping that as a result of this work that we begin to sort of push the envelope a bit but
33 not so much perhaps that you lose the support of the folks that are going to be
34 necessary to carry this forward. But the competition piece is out there.

35
36 Councilmember Elrich,

37 What, I mean, what happened in Baltimore? I mean, there is this, the Baltimore region
38 has rethought their transportation funding, there's \$340 million which they said is now
39 going to go to transit first. And they managed apparently to rethink this thing and I think
40 it's, you know, if we look at every problem we have the first instinct is going to be this
41 thing requires a road solution. If we were to step back and say what would happen if we
42 build a transit infrastructure first, then see what roads we need after we provide an
43 adequate transit structure, we might get very, very different answers, but as long as
44 we're focused on, you know, what's the immediate fix for this immediate problem, it's



September 9, 2008

1 going to be a road here and a road there and a road there. Baltimore has taken I think a
2 very bold step in a different direction and I am interested in how they managed to get
3 there. Because Baltimore Board of Trade must have gone along with this as well. So
4 they are in the game up there. What does it take to get everybody in the game down
5 here?

6
7 Council President Knapp,
8 Councilmember Berliner.

9
10 Councilmember Berliner,
11 I appreciate my colleague's comments because they are, it is a very important piece
12 and I want you to focus on, it is a 30% piece. Okay, 66% if you will is in the building
13 sector. So in terms of our priority and in terms of cost-effectiveness, it is going to be
14 critical and in terms of making progress quickly, it is going to be so important that we
15 focus on that piece. And so I was particularly gratified to hear Mr. Freudberg talk about
16 the financing mechanism for retrofitting of our existing housing stock. It is my top priority
17 going forward. I would commend to your attention if you have not already seen it, that
18 the City of Annapolis has just adopted such a program for low-cost financing and which,
19 again, in legislation that I had introduced and we didn't ultimately act on, the premise of
20 that legislation was that you can get the cost of financing low and you can spread out
21 the repayment because they attach it to property taxes. So the repayment gets attached
22 to property taxes which can be for 20 years and the repayment goes with the house, not
23 with the owner.

24
25 Unidentified
26 Yes.

27
28 Councilmember Berliner,
29 So you get a low-cost financing piece combined with attaching repayment to the house
30 and you have a net positive benefit for your consumer because their utility bills are, go
31 down more than the cost of the loan spread out over 20 years. If we can get this one
32 piece done as a region, we will have made the most strides we can possibly make to
33 achieving what we have to achieve. And so it is going to be my top priority in terms of
34 working with a sustainability working group in Montgomery County, for Montgomery
35 County to adopt this, I would be delighted to work with you to see if we can achieve a
36 regional model because this is eminently doable. It can get done and I do think we have
37 to focus on our housing stock first, in part because it gets to my colleague's observation
38 with respect to costs and benefits. If we can show our consumers that they will actually
39 be, have more money in their pocket from day one and do the right thing, I am sorry,
40 this should work. And I think that is the potential for this. It will help all sectors of our
41 economy and those who are struggling the most to hold on to their homes. So, I.

42
43 Council President Knapp,
44 Councilmember Ervin.



September 9, 2008

Councilmember Ervin,

Yeah, I appreciate Councilmember Berliner's comments and I know he looked over at me because this has been a big issue for me. I just had a conversation yesterday with our Planning Board Chair about some ideas that the Planning Board has regarding how do we really do the public outreach, and I always put a star next to outreach because there are so many thousands of families in our community who live in older either apartment buildings or older homes and who cannot afford to do any retrofitting. Even under this scenario, which I really like, by the way, there are people now who are, as you all know, who are struggling just to make their mortgage payments or their rent payments let alone adding even what would be, to some of us seem like a small amount of money to do the retrofitting, but I think that the whole notion of environmental justice really begins now, and it begins with all those folks who we normally don't see in our chambers and we don't see at the Planning Board meetings, and you don't see at COG. How do we get to those people? I really appreciate Councilmember Berliner's comments about the fact that my colleague, Mr. Elrich just commented on roads. If the target is the 60% in buildings, I am really with you on how do we focus our attention on the buildings? How do we focus our attention on outreach to those communities who normally don't hear the message, and if they are hearing it, it is not the right, we're not taking the right approach to it. So I am very interested in what COG's thinking is on all those points that were just raised.

Stuart Freudberg,

I will just make a couple of remarks. First of all, we would love to partner with you on your initiative. One other area that we've talked with some potential contractors about is that one of the issues in the property tax approach solves this problem, the contractors have trouble getting paid. And you need to find a mechanism to make sure that they will get paid for their work. That method works.

Council President Knapp,
Hold on, say that.

Stuart Freudberg,
Yes.

Council President Knapp,
Contractors have trouble getting paid.

Stuart Freudberg,
By homeowners for these types of efforts. They just don't pay them sometimes and they have trouble going after them. There is no lien on the house necessarily, or not in the, not in the same sense, a property tax is a pretty strong control method. Pepco Energy Services, for example, told us flat out they are not in the residential retrofit business even though it may be profitable, because they have trouble with people not paying. So



September 9, 2008

1 that is an obstacle we need to find a way to deal with and we have begun to have some
2 conversations, and incidentally, on the people that can't even afford to pay back the
3 loan, there are methods to accomplish that again by using performance contracting
4 where the savings from the, from, in energy costs pay back the loan and so there's zero
5 costs and possibly even continued savings to the homeowners, so it can be set up. It's
6 a matter of finding ways to get the private sector willing to get into this business. Right
7 now they like the government guaranteed building retrofit projects the best and even
8 some of the private sector projects, they've just moved into that market for retrofit
9 private buildings, so we are with you, and we, this is an area if we can find a solution to
10 this, I think it will be a huge breakthrough.

11
12 Council President Knapp,

13 Okay. And I will conclude with Councilmember Floreen to wrap it up and we have a,
14 then we have to move into a closed session. Councilmember Floreen.

15
16 Councilmember Floreen,

17 Well, I wanted to thank everybody for their hard work on this. Frankly, it is just the
18 beginning. We are starting to get, we are where the rubber hits the road on all of this.
19 And looking at the financing initiatives, both for transportation alternatives, as well as
20 energy retrofits, our existing communities is going to be the biggest challenge I think.
21 And timing is not great as we look at the pressures on our budgetary abilities to solve
22 these problems. And note, Eric is here from the County. Eric, keep an eye on that
23 Reggie auction because we should be in line to, let's make sure we are in line to get
24 some fiscal benefits from that that we can use to develop a plan for assisting our
25 homeowners and our other initiatives designed to achieve some of these goals. It is
26 going to be really hard. It is easy to say what we shouldn't do, but it is much harder to
27 get, move forward on the things that we need to do. And that has to, focuses on existing
28 populations, existing habits, and encouraging behavioral change. Thank you. Is one of
29 our toughest jobs. So that's going to be COG's challenge. And this is really a tribute to
30 the benefits of regionalism, because perhaps with our joint resources, we can do some
31 good regional marketing and look at some regional financing approaches that will help
32 us all move us forward.

33
34 Council President Knapp,

35 Very good.

36
37 Councilmember Floreen,

38 So of course, it is just the beginning, but thank you for your hard work and good luck
39 with the other, what do you have, 18 jurisdictions you've got to talk to in the next couple
40 days.

41
42 Council President Knapp,

43 Thank you all very much. This concludes this portion of Council session. Council Vice-
44 President Andrews.



September 9, 2008

Councilmember Andrews,

Thank you. I move that the Council have a closed session for the purpose of consulting with counsel to obtain legal advice regarding pending or potential litigation pursuant to Maryland Code State Government Article 10-508 A7 and 8, topic is Barwood Litigation.

Council President Knapp,
Is there a second?

Councilmember Trachtenberg,
Second.

Councilmember Elrich,
Second.

Council President Knapp,
All in support indicate by raising your hand. That is unanimous among those present. And I will just note for my colleagues' benefit, with that we will conclude after the closed session, we have two speakers for our three hearings this afternoon so it should be fairly brief and then there is a T&E public hearing this evening,

Councilmember Floreen,
Yeah.

Council President Knapp,
On Water and Sewer Category Changes for which there are five speakers.

Councilmember Floreen,
Five speakers and it is just a Committee.

Council President Knapp,
Correct. Okay. Good.

Councilmember Floreen,
But it should be short.

Unidentified
That's good.

Council President Knapp,
The Council is in recess until, or the Council is recessed to conclude, pardon, we'll move downstairs for a closed session then we'll re-adjourn back at 1:30.

September 9, 2008



**TRANSCRIPT
September 9, 2008**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	Councilmember Phil Andrews, Vice-President
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Valerie Ervin	Councilmember Nancy Floreen
Councilmember George Leventhal	Councilmember Donald Praisner
Councilmember Duchy Trachtenberg	



September 9, 2008

1 Council President Knapp,
2 Okay. Good afternoon everyone. This is a public hearing on a Supplemental
3 appropriation to the County Government's FY09 Operating Budget, Montgomery County
4 Fire and Rescue Service for \$1,348,940 for Local Fire and Rescue Departments, FY08
5 Senator Amoss Fire, Rescue and Ambulance Fund (State 508) Grant. Persons wishing
6 to submit additional material for the Council's consideration should do so before the
7 close of business on September 10, 2008. A Public Safety Committee worksession is
8 tentatively scheduled for September 11th, 2008, at 9:00 a.m. Please call 240-777-7900
9 for information. Before beginning your presentation, please state your name clearly for
10 the record. There are no speakers for this hearing. This concludes this hearing. We now
11 turn to, this is a public hearing on Expedited Bill, 28-08, Spending Affordability -
12 Operating Budget - Revisions which would revise the criteria and process for adopting
13 Spending Affordability Guidelines for the annual operating budget. Persons wishing to
14 submit additional material for the Council's consideration should do so before the close
15 of business on September 11, 2008. Council action is tentatively scheduled for
16 September 16, 2008 at 10:00 a.m. Please call 240-777-7900 for information. Before
17 beginning your presentation, please state your name clearly for the record. We have
18 one speaker. Joe Beach speaking on behalf of the County Executive. Welcome.

19
20 Joe Beach,
21 Good afternoon, thank you Mr. President. Good afternoon, I am Joseph Beach, Director
22 of the Office of Management and Budget and I am here to testify on behalf of County
23 Executive Isaiah Leggett in support of Bill, Expedited Bill 28-08 to revise the process for
24 adopting Spending Affordability Guidelines for the annual operating budget. The County
25 Executive supports the County Council's efforts to change its Spending Affordability
26 process to provide a more meaningful and timely framework for determining affordability
27 in the operating budget process. As Council staff has noted, the Council currently
28 measures affordability based on projected resources which can change significantly
29 between the time the Council adopts its initial guidelines in December and the time the
30 Council revises those guidelines in April. As a result, the initial spending guidelines are
31 no longer relevant when this happens when budget decisions are made in the spring.
32 The Executive believes personal income also can be an appropriate measure of the
33 community's capacity to pay for services and supports the inclusion of trends in
34 personal income as a factor in adopting the annual guidelines. However, while this
35 change would contribute toward more realistic spending guidelines and provide County
36 tax supported agencies with more advanced guidance on fiscal conditions when they
37 are preparing their budgets, the challenge will of course be to have the agencies follow
38 the guidelines in the formulation of their budget requests. The County Executive
39 supports the Council's desire to provide earlier guidance to the agencies of the
40 government by scheduling a fiscal plan update at the end of September each year
41 instead of the current November update. We anticipate providing an update similar to
42 the one presented to Council on July 8, 2008, at which the Council's final budget
43 decisions were incorporated into the fiscal plan and other relevant fiscal information
44 since the adoption of the budget in May were discussed. Because our practice is



September 9, 2008

1 aligned with the timing of property and income tax distributions we will continue our
2 current practice of updating revenue forecasts in November and March, since this
3 ensures that the revenue forecasts are as meaningful and accurate as possible.
4

5 ,
6 Thank you for your serious engagement on these issues and we look forward to working
7 with the Council in its deliberations on this legislation.
8

9 Council President Knapp

10 Thank you very much. There are no questions, this concludes this public hearing. Good
11 afternoon, this is a public hearing on Bill 29-08, Human Services - Montgomery Cares -
12 Advisory Board which would extend the Advisory Board for the Montgomery Cares
13 Program and revise its duties and term of office and generally amend the law creating
14 the Advisory Board for the Montgomery Cares Program. Persons wishing to submit
15 additional materials for the Council's consideration should do so before the close of
16 business on September 11, 2008. Council action is tentatively scheduled for September
17 16, 2008 at 10: 00 a.m. Please call 240-777-7900 for information. Before beginning your
18 presentation, please state your name clearly for the record. We have one speaker,
19 Brent Ewing speaking on behalf of Montgomery Cares Advisory Board.
20

21 Brent Ewing,

22 Thank you very much. My name is Brent Ewing. I am the current Chair of the
23 Montgomery Cares Advisory Board. Thanks for the opportunity to be with you here
24 today. Real quick, we have a statement for the record but to summarize we're asking for
25 basically three things to extend the term of the Board through June 30, 2015, to ask that
26 the terms of the Board be extended from two years to three years and that the current,
27 that we change so that Board members can serve concurrent, how do I, I am sorry.
28

29 Council President Knapp,
30 Consecutive terms.
31

32 Brent Ewing,

33 Consecutive and that also that we stagger the terms of the Board so that the full Board
34 doesn't turnover all at the same time, so a third, a third, a third. So, we, I carry the, the
35 unanimous recommendation from the existing Board that the term be extended. We
36 think it has been an effective way to provide community input and an outside voice on
37 the oversight for, and advice to the guidance of the program to meet its goal that we
38 common share of increasing access to care for people in our community and that is,
39 since the inception we have testified before the Council, the County Executive, we have
40 provided guidance input to staff and I think that that has been considered helpful. We
41 have only been in, meeting since October 2006, so we've been, in two years, gives us
42 less than two years to really kind of get our policies and procedures and protocols up
43 and running. So that is why we're requesting an additional six years to help the program
44 achieve its desired growth and achieve operational stability.



September 9, 2008

1
2 Council President Knapp,
3 Very good.

4
5 Brent Ewing,
6 Questions?

7
8 Council President Knapp,
9 I see no questions. Thank you very much. This concludes this hearing. And our final
10 public hearing for the afternoon, this a public hearing on a Special appropriation to the
11 County Government's Operating Budget, Department of Housing and Community
12 Affairs - \$150,000 for fire sprinklers for group homes. Persons wishing to submit
13 additional material for the Council's consideration should do so before the close of
14 business on September 11th, 2008. Council action is tentatively scheduled for
15 September 16, 2008 at 10:00 a.m. Please call 240-777-7900 for information. Before
16 beginning your presentation, please state your name clearly for the record. There are no
17 speakers for this hearing. This hearing is concluded and this session is concluded and
18 the Council stands in recess until this evening, where there is a Transportation and
19 Environment public hearing on Water and Sewer Category Changes. Thank you all very
20 much.
21